

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Introduction

The Family and Medical Leave Act (FMLA) is a very complex federal law, passed in 1993, revised in 2009, and again in 2013.

This course only provides an overview of the FMLA. If an employee under your supervision encounters a situation which you believe may qualify under FMLA, please seek proper guidance from your agency Human Resources office to address the specific situation.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

What is FMLA?

The FMLA allows eligible employees of a covered employer to take job-protected, unpaid leave, or to substitute appropriate paid leave, for up to 12 or 26 workweeks in any 12 months, due to the

- Birth of a child and to care for the newborn child
- Placement of a child with the employee for adoption or foster care
- Employee's own serious health condition making the employee unable to work
- Employee's need to care for his/her child, spouse, or parent with a serious health condition
- Qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty or call to active duty in support of a contingency operation
- Employee's need to care for a covered service member with a serious injury or illness



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Eligibility

To be eligible for FMLA leave, the agency employee must

- Have been employed by the State for at least 12 months *, and
- Have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave

* The 12 months of employment need not be consecutive. Separate periods of employment will be counted provided that the break in service

- Does not exceed seven years, or
- Exceeds seven years due to military service obligations or when there is a written agreement stating the employer's intention to rehire the employee after the service break

Note: FMLA may require employers to grant FMLA leave to agency temporary employees. If you have a temporary employee requesting FMLA leave, contact your agency's Human Resources office.

[CBT Content](#)[Resources](#)[Support](#)[Law
SERIES](#)

Page 8 of 33

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Eligibility (continued)

Consider this scenario:

John, who previously worked for the State for 3 years, has been newly hired back at the State after 2 years away. He recently suffered an injury that qualifies for FMLA leave; however, since John has only been back at the State for 10 months, he's unsure if his status as a new hire impacts his FMLA eligibility.

What do you think?

Is John eligible to take FMLA leave considering his break in State employment? Yes, he may be. If John's current employment, combined with previous employment with the State (if the break in service was less than 7 years) is at least 12 months, and payroll records indicate he worked at least 1,250 hours within the last 12 months, then he is eligible to take FMLA leave.

Questions
&
Answers

[CBT Content](#)[Resources](#)[Support](#)[Law
SERIES](#)

Page 9 of 33

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Job Protection

Additionally, the FMLA requires agencies to

- Continue health benefits at the same level as prior to the start of FMLA leave
- Return the employee to the same or an equivalent position upon conclusion of the FMLA leave

Although the FMLA prevents employers from terminating employees because they are on FMLA leave, employers may proceed with any personnel action (e.g., layoff, RIF, discipline, etc.) even while employees are on FMLA leave - as long as they do so for reasons unrelated to the leave.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Amount of Leave

Depending on the reason for the FMLA leave, the leave period may be

- Up to 12 weeks in any 12 month period
- Up to 26 weeks in a single 12 month period

FMLA is unpaid - however the State requires employees to substitute paid leave in accordance with applicable Arizona State Personnel System Rules.

FMLA may be continuous time off or intermittent time off. The pay for employees who are exempt from the Fair Labor Standards Act is different than for employees who are not exempt from the Fair Labor Standards Act. You should work with your agency Human Resources office to ensure you are coding the intermittent FMLA hours correctly for your employees.



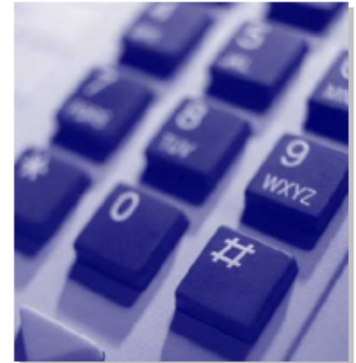
CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Contact Human Resources

Each State agency should have a policy regarding FMLA.

Contact your agency's Human Resources office if you think your employee's leave qualifies for FMLA. Your Human Resources office can answer questions and provide the appropriate forms.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Chapter Summary: Overview

This completes the Overview chapter. The next chapter discusses Qualifying Events in FMLA. If questions arise as you go through this material, please take the time to write them down to discuss them with your supervisor.

Click the next arrow to continue the course.

Chapter

Complete

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Birth or Placement

As covered earlier, FMLA provides eligible employees up to 12 weeks of leave in any 12-month period for the following:

- Birth of a son or daughter and to care for the newborn child*. The expectant mother may take FMLA leave if the pregnancy makes her unable to work during pregnancy. After the baby is born both the mother and father are entitled to use FMLA to care for and bond with the newborn child.
- Placement with the employee of a son or daughter for adoption or foster care*.

* This applies to both the mother and father.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Serious Health Conditions

As you recall, FMLA also provides eligible employees up to 12 weeks of leave in any 12-month period for the following:

- The employee's own serious health condition which makes the employee unable to work
- The employee's need to care for his/her child, spouse, or parent with a serious health condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Serious Health Conditions (continued)

Subject to certain conditions, the continuing treatment requirement may be met by

- A period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment
- An incapacity due to pregnancy or incapacity due to a chronic condition

Note: Other conditions may meet the definition of continuing treatment. See your Human Resources office for clarification.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Serious Health Conditions (continued)

Consider this scenario:

You receive a call on Monday morning from Kelly, one of your employees. She hurt herself doing yard work over the weekend and isn't feeling well enough to work. Kelly doesn't know when she can come back to work and wants to know if she is covered under FMLA for her injuries.

What do you think?

Is Kelly covered under FMLA? Perhaps. Over the next few days it may become an FMLA situation. But for now, it's simply sick time off. It may become FMLA leave if, for example, Kelly is off for more than three consecutive days or has an overnight stay in a hospital. Contact your Human Resources office in these types of situations. Human Resources will verify if Kelly is eligible to use FMLA leave and determine if Kelly's condition qualifies as a serious health condition under the FMLA.

Questions
&
Answers

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Covered Family Members

For the purpose of leave for a serious medical condition, parent, child, and spouse include

- Biological parents
- Individuals standing in "loco parentis", or as substitutes for the parents
- Natural children
- Adopted children
- Foster children
- Step children
- Legal wards
- Spouse



Also covered are children of persons standing in "loco parentis" under age 18, or age 18 or older and "incapable of self-care" because of a mental or physical disability.

[CBT Content](#)[Resources](#)[Support](#)[Law
SERIES](#)

Page 18 of 33

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Military Exigency

Up to 12 weeks of FMLA leave may also be used for a qualifying exigency for employees whose family members are members of the Armed Forces, when the covered military member is on active duty or called to active duty in support of a contingency operation. This leave may commence as soon as the individual receives the call-up notice. A qualifying exigency may be for one or more of the following:

- Short-notice deployment
- Military events and related activities
- Child care and school activities
- Financial and legal arrangements
- Counseling
- Rest and recuperation
- Post-deployment activities
- Care of the military member's parent
- Additional activities that arise out of active duty, provided the agency and employee agree, including agreement on timing and duration of the leave

[CBT Content](#)[Resources](#)[Support](#)[Law
SERIES](#)

Page 19 of 33

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Military Caregiver Leave

FMLA provides up to 26 weeks of leave in a single 12-month period to care for a spouse, son, daughter, parent or next-of-kin who is a covered service member or covered veteran with a serious illness or injury incurred in the line of duty, on active duty, or which existed prior to the active duty but was aggravated by service in the line of duty.

- Next-of-kin is defined as the closest blood relative of the injured or recovering service member.
- This type of FMLA leave is known as military caregiver leave or covered service member leave.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Chapter Summary: Qualifying Events

This completes the Qualifying Events chapter. The next chapter will discuss Taking FMLA Leave. Many of these topics may be new to you and should raise discussion questions for you and your supervisor.

Click the next arrow to continue the course.

Chapter

Complete

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Employee Notice

Employees seeking to use FMLA leave are required to provide 30-day advance notice when the leave is foreseeable.

What does the employee need to do?

- An employee must provide sufficient information for the agency to reasonably determine whether the FMLA may apply to the leave request.
- An initial request for FMLA leave only needs to be verbal. An employer may then, however, require an employee to comply with the agency policy for a written notice.

When the need for leave is not foreseeable, the employee must provide notice to the agency as soon as possible - generally, prior to the start of the employee's next work day (follow your agency's call-in procedure).



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Employee Notice (continued)

When an employee requests FMLA leave or the agency acquires knowledge that leave may be for an FMLA purpose, the agency must notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under the FMLA.

Check with your agency's Human Resources office regarding processing paperwork. For example, agency FMLA Coordinators will issue a letter notifying the employee of FMLA leave eligibility and approval.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Medical Certifications

In order for an employee to be placed on FMLA for the employee's or family member's serious health condition, medical certifications are required, except in the case of childbirth*. Depending on the situation, written medical certifications may need to include that the employee

- Is unable to work due to a serious health condition or pregnancy *
- Has been hospitalized overnight and provides the anticipated period of incapacity following hospitalization
- Must be absent from work in order to care for a family member who is under the continuing care of a health care provider



*Employers may require medical certification when the employee is unable to work due to complications from the pregnancy.

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Confidentiality of Medical Certifications

If an employee provides you with a medical certification, it must be kept confidential. It may not be kept in the employee's official personnel file and you should not keep a copy of the certification for your supervisor files. Contact your agency Human Resources office and provide the medical certification to the Human Resources Office for handling.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Counting FMLA Leave

FMLA leave starts immediately for a qualified employee who takes **intermittent** time off for a qualified event.

Eligible employees may use intermittent FMLA leave by the hour or for partial day absences and the leave can be taken for reasons such as on-going therapy, treatments, or follow-up medical appointments.

FMLA leave can also be used when the employee needs to work a **reduced** schedule. This means that the employee's physician has restricted the employee from working his or her full schedule, whether daily or weekly. This leave also starts immediately by counting these hours against the employee's FMLA leave entitlement.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Counting FMLA Leave (continued)

Consider this scenario:

Yvonne has worked for the State for 17 months as a full-time employee. She requires surgery and will be out for three weeks to recover. After her recovery, she must also have one, two-hour physical therapy session a week for three weeks beginning after she returns to work.

What do you think?

Are Yvonne's follow-up therapy appointments designated as FMLA? Yes, she is eligible for intermittent FMLA because she has a medical condition that qualifies her for intermittent FMLA leave.

Questions
&
Answers

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

FMLA and Paid Leave

As you recall, FMLA does NOT require leave to be paid; however, the State requires employees to utilize applicable paid leave.

- FMLA leave runs concurrently with sick, annual, and other paid leave (State Personnel System Rule R2-5A-D601).



R2-5A-D601

CBT Content

Resources

Support

Law
SERIES

Page 28 of 33

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

FMLA and Donated Annual Leave

An employee who doesn't have enough paid time for the entire FMLA leave may be eligible for the "Donated Annual Leave" (DAL) program. To be eligible for DAL, the employee must be unable to work for three consecutive weeks or more. DAL allows an employee to donate annual leave to another employee who has exhausted all available leave balances if the receiving employee is

- Employed in the same agency as the donating employee
- A family member * of the donating employee and employed in another State agency

Refer the employee to your agency's Human Resource office.

* "Family" means spouse, natural child, adopted child, foster child, step child, natural parent, step-parent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, or niece.



CBT Content

Resources

Support

Law
SERIES

Page 29 of 33

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Continuation of Benefits

While on FMLA leave, employees must continue to pay their portion of their medical insurance premiums. If on paid leave status, the employee portion will be deducted from the paycheck. If the employee is on Leave With Out Pay (LWOP) status, the employee must make payments to the ADOA Benefit Services office through his/her agency's Human Resources Office. Your agency's Human Resources office will have information regarding benefit payment requirements.



CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Returning From FMLA Leave

An employee who returns from FMLA leave must be restored to the employee's former position or an equivalent position with equivalent pay, benefits, status and authority. The employee's restoration rights are the same as they would have been had the employee not been on leave.

If the employee is returning from FMLA leave taken for his/her own serious health condition, the employee must provide a medical release from the employee's health care provider releasing the employee to return to work, before being restored to the employee's former position. A return to work release is required prior to the employee performing any work, including working partial days, teleworking, or any combination thereof.

Note: A return to work release is not required for each absence taken on an intermittent or reduced leave schedule.

If the employee returns to work and fails to provide a return to work release, send the employee home and advise the employee that he/she may not be restored to work until such time that a release is provided.

If the employee fails to return to work within the approved period of time following FMLA leave, contact your agency's Human Resources office for guidance.

CBT Chapters

- Overview
- Qualifying Events
- Taking FMLA Leave
- Final Exam

Chapter Summary: Taking FMLA Leave

This completes the Taking FMLA Leave chapter. The next section is the final exam.

Click the next arrow to continue the course.

Chapter

Complete

CBT Content

Resources

Support

Law
SERIES

Page 32 of 33

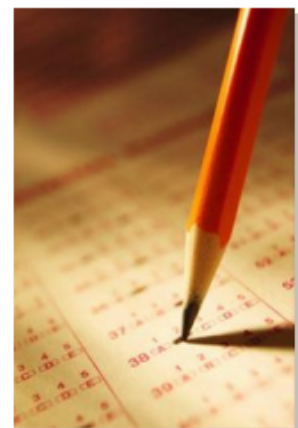
Final Exam

Assess
Your

Knowledge

This final examination is made up of 10 questions. You will need a minimum score of 70%, or 7 correct answers, to successfully pass this examination.

Click the Next button to proceed to the final examination.



CBT Content

Resources

Support

Law
SERIES

Page 33 of 33